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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-17737-2018
DECIDED ON: 20.07.2023**

ARVIND KUMAR SOOD

.....PETITIONER

VERSUS

**HARYANA POWER GENERATION
CORPORATION LIMITED & ANOTHER**

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Mohunta, Advocate for
for the petitioner.

Mr. Jagbir Malik, Advocate
for respondent No.1.

Mr. Brijesh, Advocate for
Mr. Rajesh Gaur, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Article 226/227 of Constitution of India was preferred seeking quashing of impugned charge-sheet bearing Memo No.41/HPG/CONF-478 dated 08.08.2017 (Annexure P1) having been issued without jurisdiction as the same has been served by the Managing Director, who is not the competent authority to issue charge-sheet to the petitioner, who was working as Chief Engineer and retired on 28.02.2017.

The Learned counsel for the petitioner relying upon the Regulation 21(1) read with Appendix-D of Punjab State Electricity Board Service of

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Engineers (Electrical) Recruitment Regulations, 1965 and urges that it is the Board of Directors, who is the appointing authority and full time board, can only initiate the proceedings and award punishment to the petitioner, who was working in the rank of Chief Engineer.

On the other hand, learned counsel for respondent No.1 relies upon notification of HPGCL dated 23.11.1998 (Annexure R-2), wherein an amendment was made in the said regulations being applicable to Managing Director-HPGCL delegating the power of Board of Directors/Whole-time-Directors/Directors/Chief Engineer/Administrator, which reads as under:-

“Managing Director, will exercise powers to decide the punishment cases relating to Xens and above and equivalent rank and status.”

To counter the said assertion made by learned counsel for respondent No.1, the counsel for the petitioner on the strength of Para 6 of written statement filed by respondent No.1, argues that in fact the HPGCL itself has admitted that the service rules governing the job service relating to the petitioner, while serving in HPGCL, are ‘Punjab State Electricity Board Service of Engineers (Electrical) Recruitment Regulations, 1965’ and as per note 2 of Appendix-D, the punishing authority in the case of Chief Engineers and equal status, was full board.

Considering the aforesaid submissions made by learned counsel for the respective parties and also in the light of settled proposition in service jurisprudence that the punishing authority/disciplinary proceedings, cannot be initiated by rank below to the Appointing Authority, which is the Board of Directors in the case of Chief Engineers and the instant charge-sheet assailed in the present writ petition, has been issued by none other than the Managing

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Director-HPGCL.

Learned counsel for respondent No.1 candidly and fairly agreeing with the legal proposition put forth by this Court, submits that HPGCL should be given the liberty to initiate disciplinary proceedings afresh in accordance with law.

Considering the aforesaid prayer made by learned counsel for respondent No.1 and the submission made by the respective parties charge-sheet dated 08.08.2017, is ordered to be quashed however respondents-HPGCL will be at liberty to initiate fresh disciplinary proceedings in accordance with regulations governing the service conditions of the petitioner.

In case, the respondents do not move ahead with the disciplinary proceedings against the petitioner, the retiral benefits shall be released forthwith.

Accordingly, the petition stands disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

20.07.2023

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Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*